

# EXHIBIT J

ANTHONY MONTOYA Volume 1 Confidential  
FREDERICK (RIC) SCHIFF vs SAN FRANCISCOJanuary 07, 2022  
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1	UNITED STATES DISTRICT COURT	1	INDEX
2	FOR THE	2	
3	NORTHERN DISTRICT OF CALIFORNIA	3	WITNESS EXAMINATION
4		4	ANTHONY MONTOYA
5	FREDERICK (RIC) SCHIFF, et al.,	Volume 1	
6	Plaintiff,	5	
7	vs.	6	
8	CITY and COUNTY of	7	BY MR. MULLANAX 4, 33
	SAN FRANCISCO, et al.,	8	BY MR. COWNA 20
9		9	
10	Defendant.	10	EXHIBITS
11	_____	11	DEPOSITION PAGE
12		12	Exhibit A First three pages of the POA 20
13			Journal from December of 2017
14	* CONFIDENTIAL *	13	
15	VIDEOCONFERENCE DEPOSITION OF	14	Exhibit 2 Article written by Anthony Montoya 33
16	ANTHONY MONTOYA	15	in the December 2019 POA Journal
17	Friday, January 7, 2022	16	
18	2:01 p.m. - 2:44 p.m.	17	
19	Volume 1	18	
20		19	
21		20	
22		21	
23		22	
24	JODI L. BOSETTI, CSR No. 11316, RPR	23	
25		24	
		25	
	Page 2		Page 4
1	APPEARANCES OF COUNSEL	1	Videoconference, Friday, January 7, 2022
2		2	2:01 p.m. - 2:44 p.m.
3	For Plaintiffs Frederick (Ric) Schiff, et al.:	3	
4	M GREG MULLANAX LAW OFFICE	4	ANTHONY MONTOYA,
5	BY: M. GREG MULLANAX	5	having been administered an oath, was examined and
6	Attorney at Law	6	testified as follows:
7	2140 N. Winery Avenue, Suite 101	7	
8	Fresno, California 93703	8	EXAMINATION
9	(559) 420-1222	9	BY MR. MULLANAX:
10	greg@lawmgm.com	10	Q Mr. Montoya, could you state your full name
11		11	for the record, please.
12	For Defendant City and County of San Francisco:	12	A Yeah. Anthony Michael Montoya,
13	OFFICE OF CITY ATTORNEY DENNIS HERRERA	13	M-O-N-T-O-Y-A.
14	BY: PETER A. COWAN	14	Q And you're currently employed by the San
15	Deputy City Attorney	15	Francisco Police Department, are you not?
16	1390 Market Street, 5th Floor	16	A Correct.
17	San Francisco, California 94102	17	Q And what is your current rank?
18	(415) 554-4700	18	A I'm a sergeant of police.
19	peter.cowan@sfcityatty.org	19	Q Okay. Sergeant Montoya, thank you for your
20		20	appearance here today. I don't think we'll be here
21	Also Present:	21	very long, but I want to go over a couple of ground
22	RIC SCHIFF	22	rules with you before we get started.
23	DAN KELLY	23	My name is Greg Mullanax and I represent the
24	CLAYTON HARMSTON	24	plaintiffs in this Schiff versus City and County of
25	DAVID O'KEEFE	25	San Francisco case regarding the promotions that were

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1 made back after Chief Scott got here, or maybe one of  
2 them was before he got here, but from 2017, basically,  
3 to 2019.

4 So we want to take your deposition. And the  
5 main thing to remember in your deposition today is  
6 that your testimony today is under oath just as if you  
7 were testifying in a court before a judge and a jury.  
8 Do you understand that?

9 A Yes.

10 Q Okay. And it looks like someone is trying to  
11 connect.

12 And, also, Sergeant Montoya, if I ask a  
13 question and you don't understand it, please let me  
14 know and I'll be happy to reask it. Do you agree to  
15 do that?

16 A Yes.

17 Q Okay. And also, in the deposition today, I  
18 just want to find out what you know and I'm not going  
19 to ask you to speculate or anything. So if I ask you  
20 a question that requires you to speculate or you don't  
21 have any personal knowledge of it, just please let us  
22 know.

23 And, also, if you want to take a break for  
24 any reason, please let us know and we will stop and  
25 take a break. Is that okay?

1 A Yes.

2 Q Okay. First of all, I'll just ask you some  
3 brief background. When did you join the San Francisco  
4 Police Department?

5 MR. LUCIA: Hold on. There's somebody on the  
6 call and I don't know who that is. Could we just  
7 figure that out?

8 MR. MULLANAX: Sure.

9 MR. LUCIA: It says "iPhone."

10 MR. COWNAN: That's Ric Schiff.

11 MR. LUCIA: Oh, is it. Okay. All right.

12 MR. MULLANAX: Is that everybody, Clayton and  
13 Ric?

14 MR. COWNAN: Yeah.

15 BY MR. MULLANAX:

16 Q Sergeant Montoya, I was going to ask you,  
17 when did you first start with the San Francisco Police  
18 Department?

19 A September of 1994.

20 Q And have you been with the police department  
21 ever since?

22 A Yes.

23 Q And are you currently the president of the  
24 San Francisco Police Officers Association?

25 A Yes.

Page 7  
1 Q And we'll call it the SFPOA. But what is the  
2 SFPOA?  
3 A It is the union that represents the rank and  
4 file members of the San Francisco Police Department.  
5 We represent officers all the way up to the rank of  
6 captain.

7 Q Okay. And then when did you become president  
8 of the POA?

9 A February of 2018.

10 Q And did you have a leadership position in the  
11 POA back in November of 2017?

12 A Yes.

13 Q And what was that position?

14 A I was the vice president.

15 Q Okay. I'm going to ask you a little bit  
16 about your duties. What are your duties with the POA  
17 in your position when you were vice president?

18 A Really to kind of assist the president in the  
19 day-to-day operations. The vice president doesn't  
20 have full-time release like a president does, so I  
21 maintained my patrol duties within the police  
22 department. So I was kind of a conduit from patrol to  
23 the president and back and forth.

24 Q Okay. And in your position as president,  
25 what are your duties?

Page 8  
1 A As president, I'm responsible for the  
2 day-to-day operations of the association, supervising  
3 and monitoring POA staff, attending meet and confers  
4 with the City, just all kinds of general union duties  
5 are my position.

6 Q Now, is that a full-time position?

7 A Yes, I have a full-time release from the  
8 police department to the association.

9 Q Okay. Now, back in -- I want to take your  
10 attention back to 2017. Around January 2017, is it  
11 your recollection that was about the time that Chief  
12 Scott was appointed chief of the San Francisco Police  
13 Department?

14 A Yeah, I believe he was named chief in  
15 January, but didn't like take over until March, I  
16 believe --

17 Q Okay.

18 A -- something like that.

19 Q And we're here on the promotional cases. And  
20 they're around the promotions of, I think, sergeants  
21 and lieutenants back in November or October of 2017.  
22 Do you recall those rounds of promotions?

23 A I recall promotions were made. I couldn't  
24 tell you what the exact timelines were.

25 Q Okay. There was a meeting. What I want to

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<p style="text-align: right;">Page 9</p> <p>1 get to eventually is the meeting that the POA had on 2 November 16th, 2017, at the Irish Cultural Center, and 3 it was a meeting in which Chief Scott appeared. Do 4 you recall that meeting?</p> <p>5 A Yes.</p> <p>6 Q And was that a general membership meeting?</p> <p>7 A Yes.</p> <p>8 Q Do you recall Chief Scott appearing at the 9 meeting?</p> <p>10 A Yes.</p> <p>11 Q And were promotions one of the issues that 12 was going to be discussed at the meeting?</p> <p>13 A Yes.</p> <p>14 Q At the time of the meeting in November of 15 2017, were the promotions a hot topic around the POA 16 and members of the POA?</p> <p>17 A Yes.</p> <p>18 Q And why was that?</p> <p>19 A To give a little context, I've never seen a 20 promotional process that wasn't emotional or 21 controversial on some level. But what was most 22 strikingly different about this one was what we would 23 call "first-day appointments," meaning the first batch 24 of members to get promoted. We've never seen that 25 much, I'll call it, jumping around. Typically on what</p>	<p style="text-align: right;">Page 11</p> <p>1 Kelly signed on to the deposition. That's all.</p> <p>2 MR. MULLANAX: Can I take one second? I will be 3 right back.</p> <p>4 MR. COWNAN: Let's go off the record.</p> <p>5 (Recess.)</p> <p>6 MR. MULLANAX: And I forgot if I had a question 7 pending or not.</p> <p>8 MR. COWNAN: You did not.</p> <p>9 BY MR. MULLANAX:</p> <p>10 Q So did you have any discussions with 11 Chief Scott, prior to the POA meeting in November of 12 2017, about the promotional issue?</p> <p>13 A Not that I can remember.</p> <p>14 MR. MULLANAX: Now I'm going to show you, I 15 guess, what we'll mark as Exhibit 1. I'm going to 16 share the screen.</p> <p>17 BY MR. MULLANAX:</p> <p>18 Q Can you see this? I'm going to go to the 19 first page of it. Can you see this --</p> <p>20 A Yes.</p> <p>21 Q -- here on the screen? I don't know how 22 clear it's showing up on your screen, but it's the 23 first three pages of the POA journal from December of 24 2017. Do you recognize that as being the case?</p> <p>25 A Yeah. The only thing I see is the front</p>
<p style="text-align: right;">Page 10</p> <p>1 I call first-day appointments, we really have seen 2 past chiefs kind of promote people in rank order. So 3 let's say you have 50 positions, you would typically 4 take the first 50 candidates, barring an exceptional 5 reason why somebody should be disqualified, and then 6 throughout the life of the list is when you would see 7 the chiefs kind of use their discretion to maybe jump 8 around a little bit with promotions.</p> <p>9 Q Was that the way it was -- I think the 10 predecessor before Chief Scott was Chief Greg Suhr; is 11 that correct?</p> <p>12 A Yeah, I think Toney Chaplain was the intern 13 chief --</p> <p>14 Q Oh, that's right.</p> <p>15 A -- prior to Bill Scott coming. But Greg Suhr 16 was the full-time chief, the regular chief prior to 17 his departure around May of 2016.</p> <p>18 Q Now, were the promotions that you just 19 described, that you said that had been kind of 20 traditionally held, was that the way they were done 21 under Chief Suhr?</p> <p>22 A Yes.</p> <p>23 Q Okay.</p> <p>24 MR. COWNAN: I'm just going to interject for the 25 record that a couple of questions ago Plaintiff Dan</p>	<p style="text-align: right;">Page 12</p> <p>1 page, which is usually dedicated to the president's 2 message.</p> <p>3 Q Right. And then if I scroll down, on page 2, 4 it starts the minutes of the membership meeting on 5 November 16th of 2017. Can you see that?</p> <p>6 A Yes.</p> <p>7 Q And then I'll just scroll down just so you 8 can see the whole exhibit. It goes down to the end of 9 page 3. And you can see where it is submitted by Rick 10 Andreotti, who was the secretary at the time. Do you 11 see that?</p> <p>12 A Yes.</p> <p>13 Q Okay. I'm going go back up to page 2 of the 14 thing. And I'm going to zero in on where the minutes 15 talk about the presentation by Chief Scott.</p> <p>16 Now, first of all, do you recall, was he 17 invited to come to this meeting or did he ask to come 18 to this meeting?</p> <p>19 A He was invited.</p> <p>20 Q And does the chief typically appear at the 21 general membership meetings of the POA?</p> <p>22 A I wouldn't say it's typical. You know, they 23 are invited. It depends on if there's a particular 24 issue we want them to discuss, the reason we would do 25 that. And chiefs have come to the regular board</p>

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<p style="text-align: right;">Page 13</p> <p>1 meetings, which typically is just smaller and just has      2 the board of directors. But the general membership      3 meeting allows them to interact with probably the      4 largest group of members at a given time, due to the      5 fact that it's held in a larger location and is      6 usually attended by a good portion of the members.</p> <p>7 Q Okay. And on here, if we scroll down on      8 page 2 we see "Promotions." And it says, "Chief Scott      9 reminded members that he has an open-door policy for      10 anyone who did not get promoted and he stated that the      11 Rule of 10 will continue and that not everyone on the      12 promotional list will get promotions. More promotions      13 will come in the future."</p> <p>14 Do you remember Chief Scott saying this?</p> <p>15 A Something along those lines. And in all      16 fairness, that's kind of his standard response when it      17 comes to promotions in general. But I do remember him      18 saying stuff like that. It reflects in the minutes      19 there.</p> <p>20 Q And you've heard him make similar statements      21 in other occasions?</p> <p>22 A Yes.</p> <p>23 Q Okay. Then if we go to the last column on      24 page 2, it says "President Halloran." Who is      25 President Halloran?</p>	<p style="text-align: right;">Page 15</p> <p>1 MR. COWNAN: Just an objection. Vague and      2 ambiguous.</p> <p>3 MR. MULLANAX: Okay.</p> <p>4 BY MR. MULLANAX:</p> <p>5 Q You can answer.</p> <p>6 A Yeah, like I said, I don't remember what he      7 said verbatim. Like I said, to put things in context,      8 you know, this is large general membership meeting.      9 You know, we try to do our best to maintain quiet in      10 the audience when we have somebody speaking, but when      11 the chief made comments, what really caught my      12 attention was when he referred to his comments about      13 race and gender as being criteria when determining who      14 to promote or who not to promote.</p> <p>15 Q What was your reaction to that statement?</p> <p>16 A I was in disbelief. You know, I actually      17 looked over at our then general counsel, Greg Adam,      18 who was sitting next to me at the table. And we kind      19 of looked at each other like, to make sure we heard      20 the same thing, because it just really, it caught me      21 off guard. And I wanted to kind of confirm with      22 somebody else that I just heard what I thought the      23 chief said. And by the expression on Greg Adam's      24 face, it appeared that we heard the same thing or      25 we -- yeah, we pretty much heard the same thing.</p>
<p style="text-align: right;">Page 14</p> <p>1 A He's a retired sergeant inspector, Marty      2 Halloran, who was my predecessor.</p> <p>3 Q And so it says, "President Halloran asked the      4 chief to explain the Rule of 10 and how he picked one      5 promotional candidate over another. Chief Scott      6 explained the Rule of 10. In summary, he can look at      7 candidates nine above the number of open positions.      8 Deputy chiefs reviewed all candidates' secondary      9 criteria and determined if a candidate was eligible or      10 not eligible for promotion. The chief then looks at      11 the needs of the department. He determines the      12 diversity of experience, diversity of race, diversity      13 of sex, and diversity of culture in determining who he      14 selects."</p> <p>15 Now, do you remember the chief making these      16 comments?</p> <p>17 A I don't remember him making those comments      18 verbatim. What I do remember and what kind of caught      19 me off guard was his reference to using race and      20 gender as criteria when making selections for      21 promotions.</p> <p>22 Q And when you heard the chief say that, was      23 that an unambiguous statement that he made about that?</p> <p>24 MR. COWNAN: Vague and ambiguous.</p> <p>25 MR. MULLANAX: I'm sorry?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q Did you talk to anybody else that night who      2 was at the meeting about this statement that      3 Chief Scott made?</p> <p>4 A I don't remember.</p> <p>5 Q I don't know if I can ask you. Did you      6 ask -- if he was the POA attorney, I don't know if      7 it's a privileged issue. But did you ask him if he      8 heard the same thing?</p> <p>9 MR. COWNAN: Rocky, you're on mute.</p> <p>10 MR. LUCIA: Yes, thank you, Peter. I'm going to      11 object to that. I'd have to consult with Tony to find      12 out what communication he had, what was said, because      13 he is general counsel and was general counsel.</p> <p>14 MR. MULLANAX: I'll withdraw the question.</p> <p>15 MR. LUCIA: Okay.</p> <p>16 MR. MULLANAX: I'll just withdraw the question.</p> <p>17 BY MR. MULLANAX:</p> <p>18 Q What did you do after hearing the statement.      19 I mean, did you ever contact Chief Scott about it or      20 anyone else regarding the statement he made about race      21 and gender?</p> <p>22 A You know, I don't remember. You know, I --      23 yeah, I would have to speculate, so I don't remember.</p> <p>24 Q I've seen you on a couple of news stories in      25 which you stated that you were at the meeting and you</p>

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<p style="text-align: right;">Page 17</p> <p>1 heard the chief say that. In your mind, that's a true 2 statement; is that right?</p> <p>3 MR. COWNAN: I'm going to object.</p> <p>4 THE WITNESS: Yes. Oh, sorry, Peter.</p> <p>5 MR. COWNAN: The answer is "Yes." Belatedly I'm 6 going to object to the form of the question to the 7 extent it assumes facts.</p> <p>8 BY MR. MULLANAX:</p> <p>9 Q Okay. Let me ask you this. Do you recall 10 being interviewed by the news media about the 11 promotional process?</p> <p>12 A I believe I was interviewed by several 13 newspapers around the time.</p> <p>14 Q And do you recall telling them that you heard 15 Chief Scott say that he used race and gender in making 16 promotional decisions?</p> <p>17 A Yes.</p> <p>18 Q Okay. You don't recall talking to anybody 19 that night at the meeting about Chief Scott's 20 comments?</p> <p>21 A I don't remember.</p> <p>22 Q Okay. Then I believe later the POA, through 23 their counsel, wrote Chief Scott a letter asking about 24 the promotional process. Did you all start 25 discussions about that or did anything ever flow from</p>	<p style="text-align: right;">Page 19</p> <p>1 chief or his staff about that issue?</p> <p>2 A Yeah, I personally didn't. And, like I said, 3 just to put things into context, you know, it's kind 4 of been the chief's policy that most of those 5 communications would have occurred directly with the 6 president, President Halloran at the time. So I would 7 not have been part of any of those meetings or 8 conversations they had because it's usually kept 9 between those two. And when I succeeded President 10 Halloran, I used to meet with the chief one-on-one 11 every month, just the two of us, nobody else. Those 12 meetings don't happen as often as they could. And now 13 some of those meetings do occur with other executive 14 board members at them, but at that time, that wouldn't 15 have occurred.</p> <p>16 Q At the time we filed this lawsuit, I believe 17 it was in June of 2019, and my understanding is that 18 all of the promotion rounds since then have been 19 basically done in numerical order. Is that your 20 understanding?</p> <p>21 A I would have to go back and look. I do 22 believe that some candidates were still not promoted 23 in rank order, but I would have to go back and check 24 and see if there was anything I was aware of that 25 would disqualify somebody from getting promoted.</p>
<p style="text-align: right;">Page 18</p> <p>1 this, him making these statements regarding 2 promotions?</p> <p>3 MR. LUCIA: I'm going to object only if the 4 question is addressed to him and is trying to elicit 5 responses regarding privileged communications. So if 6 you're asking him for his recollection about 7 communications that wouldn't be privileged, i.e. 8 between him and legal counsel, that's one thing, but I 9 wouldn't want him to be testifying about privileged 10 communications.</p> <p>11 MR. MULLANAX: Actually, what I'm seeking is 12 communications between the POA and Chief Scott or 13 Chief Scott's office.</p> <p>14 MR. LUCIA: Okay.</p> <p>15 THE WITNESS: Could you ask the question again? 16 I'm sorry.</p> <p>17 BY MR. MULLANAX:</p> <p>18 Q Yeah. After the general membership meeting, 19 I believe there was a letter. I think this might have 20 been where the confusion arose. I think POA counsel 21 had written a letter that, as far as I know, was not 22 privileged, but it was written either directly to 23 either DHR or Chief Scott asking about the promotional 24 process in terms of race and gender being used. I was 25 just wondering if you all ever had a dialogue with the</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. MULLANAX: Okay. I think that's all the 2 questions that I have.</p> <p>3 MR. COWNAN: Greg, can you just leave this up?</p> <p>4 MR. MULLANAX: Yes.</p> <p>5 THE REPORTER: Did you want this A or 1, because 6 in the last deposition you marked it A?</p> <p>7 MR. MULLANAX: I guess make it A.</p> <p>8 (Deposition Exhibit A marked.)</p> <p>9 MR. COWNAN: And, Greg, just for the record, 10 Exhibit A to Mr. Montoya's deposition is the first 11 three pages of the December 2017 POA newsletter, but 12 only the first three pages. It has highlighting that 13 I believe Counsel has added to it.</p> <p>14 MR. MULLANAX: That's correct. And I can remove 15 it if you want me to.</p> <p>16 MR. COWNAN: No, not at all.</p> <p>17 EXAMINATION</p> <p>18 BY MR. COWNAN:</p> <p>19 Q Mr. Montoya, are you okay to continue for a 20 little bit longer?</p> <p>21 A Yes.</p> <p>22 Q You see Exhibit A in front of you, correct?</p> <p>23 A Yes.</p> <p>24 MR. COWNAN: Greg, actually, can you scroll down 25 just a little bit?</p>

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1 MR. MULLANAX: We're done.	1 DEPOSITION ERRATA SHEET	
2 MR. COWNAN: Off the record.	2	
3	3 Our Assignment No. J7782932	
4 (The deposition concluded at 2:44 p.m.)	4 Case Caption: Schiff vs. City and County of SF	
5 --oOo--	5	
6	6 DECLARATION UNDER PENALTY OF PERJURY	
7	7	
8	8 I declare under penalty of perjury that I	
9	9 have read the entire transcript of my deposition taken	
10	10 in the above-captioned matter or the same has been	
11	11 read to me, and the same is true and accurate, save	
12	12 and except for changes and/or corrections, if any, as	
13	13 indicated by me on the DEPOSITION ERRATA SHEET	
14	14 hereof, with the understanding that I offer these	
15	15 changes as if still under oath. Signed on the _____	
16	16 day of _____, 20_____. 17	
18	18 _____	
19	19 ANTHONY MONToya	
20	20	
21	21	
22	22	
23	23	
24	24	
25	25	
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1 REPORTER'S CERTIFICATION	1 DEPOSITION ERRATA SHEET	
2	2	
3 I, JODI L. BOSETTI, a Certified Shorthand	3 Page No. ____ Line No. ____ Change	
4 Reporter of the State of California, do hereby	4 to: _____	
5 certify:	5 _____	
6 That the foregoing proceedings were taken before	6 Reason for	
7 me at the time and place herein set forth; that any	7 change: _____	
8 witnesses in the foregoing proceedings, prior to	8 Page No. ____ Line No. ____ Change	
9 testifying, were duly sworn; that a record of the	9 to: _____	
10 proceedings was made by me using machine shorthand and	10 _____	
11 later transcribed into typewriting under my direction;	11 Reason for	
12 that the foregoing is a true record of the testimony	12 change: _____	
13 and proceedings taken at that time.	13 Page No. ____ Line No. ____ Change	
14 I further certify that I am not of counsel or	14 to: _____	
15 attorney for either or any of the parties to said	15 _____	
16 proceedings, nor in any way interested in the outcome	16 Reason for	
17 of the cause named in said caption.	17 change: _____	
18 IN WITNESS WHEREOF, I have this date subscribed	18 Page No. ____ Line No. ____ Change	
19 my name.	19 to: _____	
20 DATED: January 24, 2022	20 _____	
21	21 Reason for	
22 _____	22 change: _____	
23 JODI L. BOSETTI, CSR No. 11316, RPR	23 Page No. ____ Line No. ____ Change	
24	24 to: _____	
25	25 _____	

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